

QUESTIONS AND ANSWERS REGARDING  
INDIANA'S SMALL LOAN DATABASE SOLUTION ("DATABASE")  
Modified June 2006

**1. *Why is the Department now requiring the use of a third party Database by all licensed small loan lenders?***

IC 24-4.5-7-404(5) requires the Department to monitor the effectiveness of private consumer reporting services in providing verification of outstanding loans, and to determine if one or more of these reporting services is deemed "commercially reasonable." Upon making such a determination, the Department is to notify each licensee of the existence of one or more Database products that meet this test, and to require the use of one of the Databases by each licensee. The Department has been presented with Database products from providers deemed to have met the test of "commercially reasonable" as detailed in the attached cover letter.

**2. *What is the purpose of the statutory requirement of using a Database?***

The Database is designed to validate the accuracy of the borrower's written representation regarding the number and total amount of loans outstanding at other licensees, and to ensure compliance with the following statutory limitations under IC 24-4.5-7-404(3):

- (a) A lender shall not make a small loan to a borrower that when combined with another outstanding small loan owed to another lender by the same borrower, exceeds a total of five hundred dollars (\$500) when the face amounts of the checks written or debits authorized in connection with each loan are combined into a single sum.
- (b) A lender shall not make a small loan to a borrower who has two (2) or more small loans outstanding regardless of the total value of the small loans.

**3. *What is the mandatory effective date for each licensee to comply?***

Each licensee must be operational with a Department designated commercially reasonable third party Database provider no later than November 1, 2005. Each licensee must notify the Department in writing when they become operational and which Database provider they have chosen.

**4. *Can a licensee use different Database vendors for its various branches? Can affiliated companies utilize different Database vendors?***

No to both questions. A licensee may use only one Database vendor, and all affiliated licensees must use the same vendor.

**5. *What is required of each licensee in regards to using the Database when making a loan?***

Each licensee must register each loan with the third party Database prior to making the loan. The licensee must obtain a transaction authorization number (“TAN”) for placement on the loan agreement to confirm the inquiry and the customer’s eligibility.

**6. *What is the process for registering loans on the Database?***

- a. Licensee conducts a search of the Database based upon either a social security number, alien registration number, or ITIN number of the borrower seeking a new small loan. The Database will provide the result of the search to the inquiring licensee;
- b. If the borrower is eligible for a new small loan, the licensee will submit all of the required information on a person necessary to have the small loan registered with the Database;
- c. Once all of the required information has been submitted to the Database, the small loan will be recorded as open, assigned a TAN, and the TAN will be communicated to the licensee as evidence that the transaction has been recorded with the Database.
- d. The licensee shall place the TAN on the small loan agreement; and
- e. Provide a copy of the agreement to the borrower.

**7. *What information should be provided to a borrower when the licensee determines that they may not enter into a new loan due to SLA limitations?***

The licensee must provide a written explanation stating the specific reason under the SLA for the declined eligibility. For example, the licensee may not enter into a small loan with a borrower that already has an outstanding small loan with this lender, has two outstanding small loans with other lenders, is in a waiting period with this lender, or other reasons associated with the SLA.

If the reason for the declined eligibility is based on information obtained from the Database, then the written explanation should include the customer service telephone number for the Database provider.

**8. *What if a consumer states that the information being given to the licensee via the third party Database about the consumer’s current outstanding loans is inaccurate?***

The customer should be able to obtain information directly from the third party Database provider as to the consumer’s ineligibility for a new small loan. Each approved third party Database provider must be able to demonstrate the ability to resolve these dispute issues.

**9. *What is the licensee’s responsibility for updating the Database when a partial payment is made on a loan versus payment in full?***

Partial payments will not be reflected in the database and will have no effect on amount available to borrow. A customer must still be given a receipt for any payment as outlined in IC 24-4.5-7-402(3), whether partial or in full.

***10. What is the licensee's responsibility for updating the Database when cash or check is presented for deposit as payment in full?***

Each lender must immediately update the database to indicate that the transaction is "closed":

1. upon receipt of cash from the customer to redeem the check; or
2. if/when the borrower's check is deposited or presented for payment. The timing of this deposit/presentation is subject to the policy of each lender. An account is considered closed when the lender deposits the check.

***11. What must a licensee do with respect to the Database when a customer's check is returned unpaid by the financial institution?***

If a check or electronic debit does not clear the financial institution, the licensee must immediately reverse the prior payment entry on the Database.

***12. What must a licensee do when a borrower exercises his/her right to rescind a loan?***

The licensee must immediately delete the loan from the Database using procedures prescribed by the Database provider.

***13. What access options will licensees have with respect to querying the Database?***

Each licensee must have either real-time integrated access through the licensee's in-house system, or dial-up Internet access to the third party Database.

***14. How must a licensee proceed in the event its in-house integrated system or dial-up capability is down?***

In the event the licensee's system prevents electronic access to the Database, the licensee must use alternate procedures established by the Database vendor to check borrower eligibility, register the loan, and secure a TAN prior to making a loan. Once the licensee's systems issues are resolved, the licensee must update the Database with any additional information about the transaction (e.g., payments received, etc.) as soon as possible, but not later than 24 hours after Database access is restored. If a licensee cannot meet this timetable for updating the Database,

the Department must be notified immediately. Further, any time the licensee's system is down for more than four hours, the licensee must notify the Department immediately.

***15. How must a licensee proceed in the event that electronic access to the Database is unavailable due to the Database vendor's systems problems?***

In the event electronic access to the Database is unavailable due to the Database vendor's systems problems, the licensee must proceed using the Database provider's alternate procedures to check borrower eligibility, register the loan, and secure a TAN. Once the Database provider resolves its systems issues, the licensee must update the Database with any payments received as soon as possible, but not later than 24 hours after the system is restored. If a licensee cannot meet this timetable for updating the Database, the licensee must notify the Department immediately.

***16. How must a licensee proceed in the event that no electronic or alternate means of access to the Database is available due to the Database vendor's systems problems?***

The licensee will revert to its prior procedures (customer certification, internal systems) for determining customer eligibility while the Database is unavailable. The Database provider will supply the licensee with a notice, via electronic mail or facsimile, indicating the unavailability of the Database. The Database provider will also provide the Department with immediate notice of their unavailability via email or facsimile. A copy of this notice shall be attached to each small loan agreement during the period of unavailability, and another copy retained in the loan file. The licensee will be required to attempt to register each new loan transaction during the period of unavailability unless a specific period of outage is indicated by the Database provider. Once the Database operation resumes, the licensee must access the Database and enter all new loans and update the Database with any loan payments as soon as possible, but not later than 24 hours after the system is restored. If a licensee cannot meet this timetable for updating the Database, the licensee must notify the Department immediately.

***17. Is the customer representation of outstanding loans still required on the loan agreement since there is now a Database?***

Yes. The Database is to supplement and not replace the information on the customer's loan agreement under IC 24-4.5-7-404.

***18. What records must be kept by the licensee in regards to the Database?***

All records of a small loan transaction including loan disclosures, payment histories, collection account info and Database information must be retained for at least two years after the account is paid in full as outlined in IC 24-4.5-3-505(1).

**19. *What is the licensee's responsibility for the accuracy of its customers' information on the Database?***

Licensees shall immediately update loans registered with the Database to ensure that all identifying information regarding both the borrower and the transaction are accurate.

**20. *How will the Department utilize the information stored in the Databases in its regulatory efforts?***

The Department will review reports generated from the Databases to ensure compliance with the provisions of IC 24-4.5-7-404(3). Database reports will be compared with the licensee's records to ensure proper implementation of this guidance. Database reports will also be used by Department examiners as an examination tool generally.

**21. *What will ensure that all licensees enter all transactions at the time a loan is made and at the time a loan is paid in full?***

The Department fully understands that, in order for a Database to be effective in ensuring compliance with the statutory requirements of the Act, all licensees must be held fully accountable in terms of entries into the Database both for new loans and loans paid in full. Approved vendors will make reports available to the Department to determine compliance. Licensees will also be required to keep full records on all transactions. As noted in the attached cover letter, the licensee's failure to comply will prompt immediate corrective action by the Department up to and including license revocation procedures.

**22. *Can a lender require a borrower to redeem a check issued in conjunction with a small loan for cash?***

A lender may not require a borrower to physically return to a lender to redeem a check issued in conjunction with a small loan. It is the option of the borrower to return to a lender and redeem a check for cash, or allow the check to be deposited or presented for payment.

**23. *What effect does a bankruptcy filing have with respect to any open small loan?***

A small loan will be "terminated" and must be removed from the on line database if specifically discharged in bankruptcy. Otherwise, the loan is treated as any other small loan - that is, it remains outstanding until the debt is paid in full.